

RESOURCES AND DEVELOPMENT MANAGEMENT DEPARTMENT

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DATE: February 5, 2004

TO: Orange County Zoning Administrator

FROM: Resources and Development Management Dept./Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA03-0108 for Coastal Development Permit and Variance

PROPOSAL: A Coastal Development Permit is proposed to construct an accessory structure (pool and retaining wall) in the rear yard that is accessory to an existing single-family dwelling. The Coastal Development Permit includes the construction of a 9'-6" retaining wall for the proposed pool. A Variance is request to allow a portion of a 116 square foot addition to encroach 8 inches into the 25 feet rear setback area.

LOCATION: In the community of Emerald Bay, on the ocean side of Pacific Coast Highway, at 95 Emerald Bay, Laguna Beach. Fifth Supervisorial District

APPLICANT: Robert O Hill, property owner
Stearns Architecture, agent

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 834-3522

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA03-0108 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is approximately 7,022 square feet in area and is generally rectangular in shape averaging approximately 60 feet wide by 110 feet deep. The site is a "through lot" with the front property line on an Emerald Bay private street right-of-way and the rear property line on Pacific Coast Highway right-of-way. The site is located between existing single-family dwellings. The property is developed with a single-family dwelling. County records indicate a home was built on the site in 1960. Variances number V179 and V2015 were previously approved on this site. In 1998 Planning Application PA97-0154 was approved for a Coastal Development Permit to demolish the existing dwelling and construct a new larger single-family dwelling. The proposal was never started and the Coastal Development Permit became null and void in February 2000.

The current proposal is to remodel the existing dwelling. This includes a 116 square feet addition to the rear of the home and remodeling and expanding the rear terrace area. The 116 square feet addition to the

dwelling is less than a 10% increase in the existing square footage of the dwelling and is exempt for the requirements of obtaining approval of a Coastal Development Permit. However, the proposed addition encroaches in the rear 25 feet setback area by 8 inches and a Variance is required. The proposed change to the terrace includes the addition of a new spa and new 14 feet high retaining wall with a fountain feature. A Coastal Development Permit is required for these accessory structures because the project site is within an appealable area in the coastal zone and is not exempt for obtaining approval a Coastal Development Permit. Because a portion of the retaining wall and fountain feature are over 6 feet in height and encroach 4 feet into the rear setback area, the Coastal Development Permit also includes the proposed over height wall.

SURROUNDING LAND USE:

The project site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with (or approved for) single-family dwellings (see photo below). Emerald Bay also has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing dwelling or making large additions to an existing residence and/or construction of a new dwelling. Properties located on the ocean side of Pacific Coast Highway, such as the subject site, are subject to the CD regulation and are subject to obtaining a Coastal Development Permit for new construction.



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. A Notice of Hearing was also mailed to the “occupant” of homes within 100 feet of the subject site as required by Coastal Development Permit procedures. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to two County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Emerald Bay Community Association approved the proposal November 22, 2003.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 1, repair or minor alteration of existing structures or facilities) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The propose project is in the rear yard of the subject site. The rear yard abuts Pacific Coast Highway and should not affect any adjacent property owner. The variance proposed is very minor (less than a one foot encroachment into the required 25 foot setback area). Variances are common to front and rear setback area throughout Emerald Bay. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

- 1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.*
- 2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.*

With regards to the proposed variance, the encroachment is limited to 8 inches and consists of the wall the proposed addition. The encroachment is less than what Zoning Code Section 7-9-128 “Exceptions” permits for roof eave overhang for projection into setback areas. The variance proposed is insignificant.

Staff did not identify any planning concerns for the over height walls in the rear setback area. The encroachment is only four feet leaving a setback of 20 feet to the rear property line. Over height walls are common in all setback areas for new construction all throughout Emerald Bay. However the Zoning Administrator must be able to make the following two findings for walls before the proposed walls can be approved:

1. *The height and location of the fence or wall as proposed will not result in or create a traffic hazard.*
2. *The location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objection-able, detrimental or incompatible with other permitted uses in the vicinity.*

The proposed project, including the dwelling structure addition, building setbacks and over height walls in the rear setback, is compatible with other single-family dwellings in the vicinity that have been constructed or approved for construction. The proposal has been reviewed and approved by the Emerald Bay Community Association. As of the preparation of this report, staff has received no communications on this proposal from any property owners in the vicinity. Staff is of the opinion that the Zoning Administrator is able to make the two-variance findings (Finding numbers 12 and 13) and the two wall findings (Finding numbers 10 and 11). Staff supports the applicant's proposal and recommends project approval as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA03-0108 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
3. Site Photos
3. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Resources and Development Management Department.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.